

MINUTES
OF THE
PROCEEDINGS
OF
HIS MAJESTY'S
Commissioners of Lieutenancy
FOR THE
CITY OF LONDON, *K*
ON THE OCCASION OF
HIS MAJESTY'S COMING TO ST. PAUL'S,
On Tuesday, the 19th Dec. 1797.

LONDON:
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1798.



CITY OF LONDON

ON THE

THE MUSEUM'S COMING TO ST. PAUL'S

On the 1st day of the month of

PRINTED AT THE

PRINTING OFFICE

10, BROAD STREET

1798.

At a Court of Lieutenancy held at the
Guildhall, London, on Wednes-
day, the 29th day of November,
1797.

SIR William Herne stated to the Court that the Right Honourable the Lord Mayor had received a letter from his Grace the Duke of Portland, informing his Lordship of his Majesty's intention of coming to the Cathedral Church of St. Paul, on Tuesday, the 19th day of December next, to return thanks to Almighty God for the success of the British arms, whereupon a motion was made and seconded, That a Committee be appointed to confer with the Right Honourable the Lord Mayor respecting the disposition of the Military Force of this City on that day, and that the said

Committee

Committee do report to this Court their opinion as to what steps it may be expedient for his Majesty's Lieutenants to take on the occasion; which, upon the question being put, passed in the affirmative.

RESOLVED,

That the said Committee do consist of Colonel Newnham, Lieutenant-Colonel Wilson, Alexander Aubert, Thomas Turquand, William Porter, Henry Jackson, Anthony Geledneki, Richard Puller, Matthews Beachcroft, and Randle Jackson, Esqrs. and that they be empowered to meet at such times and places as they shall think proper, and to adopt such measures as they may think the purpose of their appointment requires.

ORDERED,

That the Clerk of this Court do transmit a copy of the foregoing resolutions to the Right Honourable the Lord Mayor, with an intimation that the said Committee will have the honour to wait on his Lordship when his Lordship shall express a wish to see them.

Wednesday,

Wednesday, 6th December, 1797.

A report, from the Committee appointed at the last Court to consider what steps it may be necessary for this Court to take on his Majesty's coming to St. Paul's on the 19th instant, was presented by Richard Puller, Esq. and read as follows, viz.

To the Right Honourable the Lord Mayor, Aldermen, and the rest of his Majesty's Commissioners of Lieutenancy for the City of London.

We, whose names are hereunto subscribed, being of a Committee of Lieutenancy appointed by an order of this honourable Court, bearing date the 29th of November last, to consider what steps it may be necessary for this Court to take on his Majesty's coming to St. Paul's on the 19th inst. being the day appointed by his Majesty for a public thanksgiving to Almighty God for the success of the British Arms—

DO REPORT,

That they have searched the Records of this Court, as far back as the year 1660, for

precedents respecting the conduct observed, and the steps taken by his Majesty's Commissioners of Lieutenancy, on the occasion of their Majesties the Kings and Queens of England coming publicly into the city; and that it appears to them that, upon all such occasions, the Court of Lieutenancy has, immediately on being informed of such gracious intention, taken order for the protection of the royal person, and for the preservation of the public peace, by the military force of the city of London. That they have called out all or part of the same, both horse and foot, according to their discretion, and appointed them to such posts and stations, and fixed upon such periods of relief, and given such orders, and made such general military arrangements, as the occasion and their duty seemed to require.

And it further appears, particularly by the entries of October 1697, and 16th September 1714, that, for the better settling the means for rendering the King all possible honour, as well as for preserving the respect due to the
military

military force of this city, that Committees of this honourable Court have been appointed to confer with the Committee of Aldermen, and with the then Lords Justices.

That it further appears, that, under date 11th November, 1702, is the following minute, viz.

“ This Court, taking into consideration her
 “ Majesty’s royal intention of coming to the
 “ cathedral church of Saint Paul on Thursday
 “ next, being the day appointed by her Majesty for
 “ a public thanksgiving for the great and glorious
 “ successes of her Majesty’s fleet and armies, doth,
 “ for the safety of her Majesty’s person on that
 “ occasion, and securing the public peace, think
 “ fit and order that the Blue and Green Regi-
 “ ments be raised, and be on the guard to-mor-
 “ row morning by seven of the clock; and that
 “ they be placed, by the officers of their respective
 “ regiments, in good order on each side of Fleet-
 “ street, so far as they will extend from Temple-
 “ Bar towards Ludgate, and from thence to St.
 “ Paul’s church, and continue so placed until
 “ her

“ her Majesty shall pass by them to the said
 “ church; and that they remain so placed, and
 “ do attend her Majesty’s return out of this city.
 “ And it is further ordered, that the several com-
 “ manders of the said respective regiments do
 “ take care that all the soldiers be completely
 “ armed, and that the rolls of their several com-
 “ panies be carefully called over at the usual
 “ parades of each respective regiment; and that
 “ both the said regiments be then mustered by
 “ the muster-master of this city, and that the
 “ names of all defaulters be returned to her
 “ Majesty’s Commissioners of Lieutenancy.
 “ And further, the several officers of each respec-
 “ tive regiment are to take care that, to the utmost
 “ of their power, they keep the peace, and appre-
 “ hend and take into custody all such persons as
 “ shall be guilty of the breach thereof, and deliver
 “ them unto some constable or other officer hav-
 “ ing legal authority in that behalf, to the end
 “ they may be dealt withal according to law.
 “ And it is further ordered, that after her Majesty
 “ shall be returned, that, from that time, one
 “ company of each regiment do remain in arms

“and keep guard—the one of them at the
 “Exchange and the other at Bridewell—till twelve
 “of the clock at night.”

And it also appears, that similar orders were
 given upon several of the like occasions.

Your Committee not having yet had any
 conference with the Lord Mayor, or any Com-
 mittee of the Corporation of London, content
 themselves at present with offering to this
 Court the substance of their investigation.

All which your Committee report to this
 honourable Court.

Guildhall,
 6th December, 1797. }

(Signed)

R. PULLER
 AY. GELEDNEKI
 MAT. BEACHCROFT
 WM. PORTER
 RANDLE JACKSON.
 MATT. WILSON
 ALEX. AUBERT
 THOS. TURQUAND
 HENRY JACKSON.

After

After the reading of which report a motion was made and seconded, That a copy thereof be sent to the Right Honourable the Lord Mayor, with a request that the said Committee appointed by this Court may have a conference on the subject with his Lordship, and such other Magistrates as his Lordship may appoint for that purpose; and upon the question being put, the same passed in the affirmative.

Wednesday, the 13th day of December, 1797.

A further report from the Committee appointed to consider what steps it may be necessary for this Court to take on his Majesty's coming to St. Paul's, was presented by Richard Puller, Esq. and read as follows, viz.

To the Right Honourable the Lord Mayor, Aldermen, and the rest of his Majesty's Commissioners of Lieutenancy for the City of London.

We, whose names are hereunto subscribed, being of a Committee of Lieutenancy appointed

by an order of this Honourable Court, bearing date the 29th day of November last, to consider what steps it may be necessary for this Court to take, on his Majesty's coming to St. Paul's on the 19th inst. being the day appointed by his Majesty for a Public Thanksgiving to Almighty God for the success of the British Arms,

DO REPORT,

That the Right Honourable the Lord Mayor having appointed to confer with your Committee on the 8th inst. at the Mansion House, your Committee waited accordingly on his Lordship. Your Committee first notified to his Lordship the strength of the East Regiment, and submitted to his Lordship the propriety of applying to his Royal Highness the Commander in Chief, to order the West Regiment to return to London on the 19th inst. and to mount guard on that day. His Lordship agreed in that opinion, and politely offered to apply to his Royal Highness, in the name of this Court, for that purpose.

Your Committee then proceeded to state to his Lordship the result of their researches into the precedents of this Honourable Court, from the year 1660 to the year 1789, respecting the conduct of this Honourable Court on occasions of the Kings and Queens of England coming publicly into the City, viz:—That it appeared to your Committee, that his Majesty's Commissioners had uniformly, during this long period of time, directed the whole military force employed in the City on such occasions; That conferences had sometimes taken place between Committees of the Court of Aldermen, and Committees of this Court, upon such occasions; That the military part of such arrangements, as were then agreed upon, had always been executed by the Commissioners; That your Committee, understanding that his Lordship meant to call in other force in addition to the London Militia, stated, that your Committee apprehended that, according to analogy to all the precedents during the above period, except in the year 1789, it was the province of his

his Majesty's Lieutenants to station, order, and direct such forces.

That, with respect to the London Militia, your Committee were decidedly of opinion, that their sole command always had and, of right, ought to be invested in his Majesty's Commissioners; That your Committee felt it their duty to declare, that the London Militia, being the constitutional and proper force of the City of London, were entitled to take rank and precedence over any other military force, not being troops of the line, and ought to be stationed accordingly. His Lordship was pleased to answer generally, that he would state the sentiments of your Committee to his Brethren, the Aldermen, and that this Honourable Court should hear further from him; but his Lordship at the same time intimated it as his opinion, that the Commissioners of Lieutenancy had no kind of authority or controul over such other force as he might think proper to call in, and that he had even authority to station the London Militia according to his discretion; but, at the

same time, his Lordship assured the Committee, that, in assigning those stations, he should consult the honour of the London Militia.

Your Committee, being very anxious to offer all possible information to this Court upon so important a subject as the establishing a precedent which might be found hereafter to affect the rights of his Majesty's Royal Prerogative, as well as the honour of the Military Force of the Citizens of London, requested Mr. Jackson, the standing Counsel to this Court, to take the whole subject into his consideration, and to report his opinion fully upon the same; which opinion your Committee annex to this report, desiring to refer this Honourable Court to the same.

All which your Committee report to this Honourable Court.

Guildhall, Dec. 13, 1797. (Signed)

R. PULLER

WM. PORTER

AY. GELEDNEKI

HENRY JACKSON

THOS. TURQUAND

MATT. WILSON

ALEX. AUBERT.

*Annexed Opinion of Randle Jackson, Esq.
for the Court of Lieutenancy.*

Having from the first regarded this question as of great importance to the Court, with respect to the precedent which their conduct on the occasion will undoubtedly establish, I have felt it my duty to give the subject the most serious consideration, and have endeavoured to qualify myself to judge of it, by an industrious search among the records of this Court, from the earliest date in its possession; among those historical facts which relate to the London Militia during a period of near two hundred years, and consulting, at the same time, such official documents of the Courts of Aldermen and Common Council as I happen to be in possession of, extracted from various publications.

I have always regarded the duty of his Majesty's Commissioners of Lieutenancy of London, as comprised in two propositions; namely, That they are appointed to regulate, direct, and govern the military force of the City of London, in such manner as shall be consistent with the royal prerogative

rogative or rights of the Sovereign, and with those rights and privileges which the Citizens of London have immemorially enjoyed, and which have not been revoked by the Sovereign (the acknowledged head of every description of military force employed in these kingdoms, or in any of the British possessions), or by any act of the Legislature.

The Court may find it more convenient if I divide the question into four heads of consideration.

FIRST—What has been the conduct pursued by this Court upon former occasions of the Kings and Queens of England coming publicly into the City of London.

SECONDLY—What ought to be the conduct of this Court respecting that regiment, which according to the directions of the late act (36 Geo. III. c. 92, § 40.) must remain in the City of London, or the liberties and suburbs thereof, for the defence of the said City, its liberties, and suburbs.

THIRDLY

THIRDLY—As to that regiment which by the same act is put under a General Officer appointed by his Majesty.—And

FOURTHLY—As to such additional troops or armed force as the Chief Magistrate may apply for, or his Majesty may command into the City on that occasion, not being any part of the City's own military force.

With respect to the first question, viz. as to the conduct of this Court on former similar occasions? it seems obvious, from more than twenty precedents between the Restoration in the year 1660, and the Royal Visit in 1789, that a strict and cordial understanding has subsisted between this Court and the Magistracy of London respecting the measures to be taken on such occasions; there is no instance of the contrary, and this understanding seems to have arisen from the Lord Mayor and Aldermen being members of this Court, undoubtedly therein debating and settling the general arrangement. In some instances it

seems that a Committee of Lieutenancy was ordered to confer with a Committee of Aldermen, and this appears to have produced the same result, namely, that the general arrangement was understood and settled between the Magistracy and this Court, the *civil* part being left to the Magistracy, to whom all offenders were immediately brought, to be dealt with by the Lord Mayor or other Justices of the City; but the whole *military* part of the arrangement left totally and entirely to the King's Lieutenants, who gave their absolute, imperative, and uncontrouled orders to both horse and foot, assigned them their stations during the procession, appointed them afterwards to a variety of posts in different parts of the metropolis, and fixed the periods of their relief, which seldom took place until the following morning.

An instance of a conference with a Committee of Aldermen appears in October 1697, on King William's passing through the City, on his return from Flanders; such special conferences were, perhaps, considered superfluous, from the nature
of

of the Court of Lieutenancy, in which generally a considerable part or all of the Aldermen had voices.

The uniform tenour of the resolutions of this Court was, "That for the safety of his Majesty's person (on the occasion), and for securing the public peace, this Court thinks fit *and orders*, that &c." going on to name the regiments to be called out, and to appoint the stations which they were to occupy. These orders were afterwards given out, under warrant of this Court, to the Major-General of the City's forces, or to the inferior officers of the cavalry or infantry, as the case required. It appears that this Court held frequent previous consultations with their own military officers upon such occasions; that they gave general orders respecting the preservation of the peace, such as preventing the passing of carriages, &c.; and I observe that among the orders upon the King's entrance at his restoration, after assigning the various stations in the usual mode, this Court gives the following order, viz. Ordered, "That the Colonels of the Trained

“ Bands give orders to the Captains and Soldiers
 “ under their command, on Tuesday next, being
 “ the day appointed for his Majesty’s passing through
 “ this his City, not to discharge any musket, / &c.
 “ *under pain of death*, and not to fire till the King’s
 “ troops have fired, from Whitehall to Temple
 “ Bar, and then in order.” The stations on this
 occasion were fixed by the Court, with the advice
 of the Lord-General; and it may not be amiss to
 observe, that it appears, by an entry 2d July, 1713,
 that the military posts were Temple Bar, Moor-
 gate, the Royal Exchange, and a variety of
 others; amongst which it appears, by a subse-
 quent entry, that one was at the entrance into
 Saint Paul’s Church. It is to be observed, how-
 ever, that during this period, between 1660 and
 1789, there appears one instance, namely, in
 April 1789, in which this Court resolved to put
 four regiments under the orders of the Lord
 Mayor on the occasion of his present Majesty’s
 coming to St. Paul’s, without reserving any con-
 troul or direction to themselves. Of the legality
 of such a resolution I shall hereafter speak: it is
 enough here to say, that a single instance of this

kind, opposed to twenty contrary and uniform precedents, throughout so considerable a period of time, must sufficiently establish what has been the ancient and established usage.

If, however, the present Chief Magistrate, for reasons which I have neither the right nor the inclination to question the wisdom or the propriety of, thinks fit to decline introducing a Committee of this Court to a conference with a Committee of any part of the Corporation of London, as on former occasions, but claims a right, as I understand he does, in his own person as Lord Mayor, not only to call what additional military force he thinks proper into the City of London, but to take upon himself the exclusive command of it in every respect, without consultation or co-operation with this Court, and even the right of ordering out, of commanding, stationing, and directing the London Militia, without reference to the authority or opinion of the Court of Lieutenancy, it then only remains for the Commissioners to consider, how they shall best conduct themselves towards his Majesty, whose military repre-

representatives they are emphatically described to be in law; towards the Citizens of London, with whose military privileges they are entrusted, and with respect to their own honour, as being responsible to both.

I know not how to arrive at these conclusions better, than by considering the remaining three questions; but as the third and fourth are not only much easier to dispose of, but much less important to this Court than the second, I will consider them in an inverse order, and take the fourth next, which respects such additional troops, or armed force, as the Lord Mayor may apply for, or his Majesty command to enter and guard the City on the occasion in question. With respect to the latter part of the proposition, I see no difference between the King's ordering in volunteer corps, bearing his commission, or troops of the line; but as I know of no instance of his Majesty's having ordered the latter, unless at the instance or by the request of the Chief Magistrate, I shall not suppose it likely to happen in the present instance.

With

With respect, therefore, to such force as the Lord Mayor may call in, not being troops of the line, or ranking higher (which I apprehend no volunteer corps does) than the national Militia.

I think reason, and strict analogy to all the precedents which I have alluded to, through so long a period of time, seem to say, that the King's military representatives in the City should command such force as he allows on such occasions to take station therein, at the request of the Lord Mayor or otherwise, unless where his Majesty (as has been sometimes the case during the reign of Charles the Second, and succeeding Sovereigns) is pleased to give especial orders through the Commander in Chief of his Forces. I should have been of that opinion, had I found no direct precedents, but I think there are some which ought to be decisive on that subject.

It appears, by an entry 13th March, 1659, that
 “ his Excellency, the Lord-General, coming this day
 “ to the Commissioners, expressed a very kind accep-
 “ tation of the City's election of him to be Major-
 “ General

“General of the City’s forces, and advised that a careful execution may be made of the clause in “the act for disarming of disaffected persons.” By subsequent entries, it appears that the Lord-General commanded the avenues to be strictly guarded, and that frequent conferences took place between this Court and the Commissioners of Militia for Westminster, the Borough of Southwark, and the Tower Hamlets, respecting the *out-guard*; part of which force, it is fair to presume, (particularly the latter corps) must have been stationed within the suburbs and liberties of the City at least. No trace appears of any interference on the part of the Civil Magistrate in these military arrangements; but the Lord-General communicated with the Lieutenancy of London direct, and, as appears in some instances, by his express recommendation, they communicated with the neighbouring Commissioners for one common purpose.—But this, it may be said, was in the time of the Commonwealth.—Let us proceed, then, to Monarchy.

In

In May, 1660, the period of the restoration, a conference took place between the Commissioners of the Lieutenancy of London, the Commissioners for Westminster, Southwark, and the Hamlets; and, by the *appointment of this Court*, that conference was held at Guildhall.

In the same month appears the following entry:
 “On a motion of Mr. Mascall, in behalf of the
 “Company of Merchant Adventurers, *for liberty*
 “to draw out their said Company on horseback,
 “with trumpets sounding after the manner of a
 “troop, It is granted that they may accordingly
 “march out at his Majesty’s coming into the city,
 “and meet in the Artillery-Ground, in the mean
 “time the better to fit themselves for that service.”

In the same month (25th inst.), appears an application from the Artillery-Company, in substance as follows:—“The Artillery-Company
 “desiring to appear in *that capacity* on the day of
 “his Majesty’s passage through the city, *It is thought*
 “*fit* that they rather appear in their proper com-
 “panies of Trained Bands.”

Here

Here then are two instances of applications, made not to the Lord Mayor, but to the City's Military Court. Their determination shews their power: they comply with the request of the Merchant Adventurers—they refuse that of the Artillery-Company. Their refusal of the latter, to appear as a *distinct military body*, is perhaps easily accounted for. The Artillery-Company acted under no military commission, were not subject to law-martial, or any kind of military discipline or punishment: they were embodied, I believe, then as now, under a letter of licence, to pursue their *pastimes* (for such is the term, though they are military pastimes, and highly laudable), and were even prohibited from wearing any royal military uniform—the colours of scarlet and purple having been forbidden them from their first institution under Henry the Eighth. Whereas, on the other hand, being then most of them Officers in the Trained Bands, they might appear with their proper companies in full military uniform.

Another, and a strong instance of the authority of this Court in military matters, appears so recently

recently as September, 1714 ; where this Court having observed, by the Earl Marshal's arrangement of the ceremonials for the King's coming into the city, that a body of the Artillery Company meant to march into the city, headed by some person whom this Court knew not, and who had no commission or authority from it. The Commissioners appointed a Committee to wait upon the Lords Justices for an explanation, apprehending it must be some mistake. It should seem that this Committee succeeded with their Lordships, as I observe, about the same date, a resolution, that the grenadiers (meaning, I presume, the Artillery Grenadiers) should be headed by Captain John Silk, *and no other person* ; and it appears, by a subsequent entry, that a gratuity was ordered by this Court to the Artillery Grenadiers for their attendance on this same occasion.

From these different instances, it seems to me to be incontestably clear, from facts as well as analogy, that the King's military representatives in the city of London have hitherto exercised *his authority* and their discretion over all such forces

as have been therein employed, unless when such forces have acted under the especial orders of the Commanders in Chief. But if the present Chief Magistrate, from a difference of opinion (for his high and honourable character forbids any other supposition), shall deny to this Court the exercise of that authority, it is for this Court to judge whether they are not called upon, by their duty to the King, humbly to represent that fact, as well as the ancient usage to which I have referred, in order that his Majesty may be duly apprised of the proposed alteration in the direction of a part of his forces.

As to any alteration which may have been made in the authority of this Court by the late Act, that will, in some degree, be considered under the two remaining questions; I will only say here, that the London Militia, as well as his Majesty's Lieutenants, who are appointed to direct it, retain every part of their ancient privileges and authority not expressly taken away by that Act.

I pro-

I proceed, therefore, to consider the third question, which is, as to the proper conduct to be observed by this Court respecting the regiment which is now placed under a General-Officer of his Majesty's appointing, by virtue of the Act last alluded to.

If I am at all correct in my preceding observations, the solution of this question is obvious.

If his Royal Highness, the Commander in Chief, shall order that regiment to march into London under specific orders, those orders must supersede all others. If he orders it to return to London for the day with only general orders, it falls under the direct and absolute authority of the Commissioners of Lieutenancy.

I have purposely reserved the second question, viz :—" What ought to be the conduct of this
 " Court respecting that regiment which, according
 " to the directions of the late Act (36th Geo. III.
 " c. 92. § 40), must remain in the City of London,
 " or the liberties or suburbs thereof, for the defence

“ of the said City, its liberties, and suburbs ?” to be last considered, because it will require full investigation, and is, in my opinion (regarding it as leading to or establishing a precedent, which may in its consequences deeply affect the royal prerogative, as well as the military rights, privileges, and character of the citizens of London) of the last importance.

This question resolves itself into a single, though serious proposition, viz :—Can or ought his Majesty's Commissioners of Lieutenancy to surrender, for a given time, the entire command of his stationary military force in London to the Chief Magistrate, or to any person or persons whatever, without his royal permission ?

I understand it to be the wish or suggestion of the Chief Magistrate, that this Court should, in imitation of the solitary precedent of 1789 (a period when this Court had become nearly as obsolete as the military force which it was instituted to govern), resolve, that, on the occasion of his Majesty's coming to St. Paul's, they will put the
military

military force of this city under the orders, authority, and command of the Right Honourable the Lord Mayor. I am of opinion, that this Court can neither legally or loyally come to such resolution, or any other which imports a resignation of their authority; it being not only not warranted by, but directly repugnant to, the letter and the spirit of his Majesty's commission under which they act, to the statutes concerning the London Militia, and to the known constitution of the country,

I presume this honourable Court to be anxious on all occasions to govern themselves by principle. No man, individually, can apprehend danger from the proposed surrender of authority to a gentleman of the Lord Mayor's known attachment to the state, and at a period of universal loyalty and affection like the present; but this Court will contemplate the use which possibly may be made of such a precedent, under circumstances of an opposite description; they will reason upon what may happen from what has happened, and will pardon me for treating the subject more seriously and

and at large, than otherwise I should have thought it necessary to do.

As to the *letter* of either the Commission or the Acts of Parliament, there is not a word in any of them which sanctions a deliberate delegation of the authority of the Commissioners. By the Commission, the Commissioners can do no legal act with less than nine members, one being an Alderman. If they chuse to lead forth and march with their troops as Field Commissioners, they may do so under the Act, such being the language of their Commission; but I apprehend that not less than *nine* could act even in that capacity; and the regiments can receive no orders but from officers appointed by the Commissioners (whether from their own body or not is immaterial), or a quorum of themselves. The Civil Magistrate can, undoubtedly, call on the military force of London upon any *sudden emergency*, as provided in the Act, and this very provision establishes the general rule, viz. that unless upon such an occasion he has no such authority; he being obliged by the Act (§ 47) to call a Court in twenty-four hours after,

after, to which he is to assign his reasons for calling out the Militia, and the Commissioners are then to make further order therein, and either continue all or part of their force out, or call it in altogether, not at the *Chief Magistrate's*, but at *their own discretion*. And this provision is consistent with ancient usage; for I find several instances where the Lord Mayor has been empowered by this Court to call out the City's force upon *any sudden emergency*, but requiring him to call a Court of Lieutenancy in twenty-four hours after; and as a proof that this authority did not extend beyond such emergency, and that it did not extend to such an occasion as the present, may be cited an entry of this Court, 26th December, 1706, which gives to the Lord Mayor this particular power in cases of emergency; and another entry, which occurs only ten days after, respecting the Queen's coming to St. Paul's, in which the *Commissioners themselves*, as usual, give out all the necessary orders as to number of men, station, relief, &c. &c. And even the resolution of this Court of 23d of October, 1697, (the only instance of the kind), which empowers the Lord Mayor to *raise* the fix
regiments

regiments on the occasion of King William coming into the City, follows up that permission, in *the very same resolution*, with the *orders of this Court*, as to the disposition of those regiments when they shall be so raised. I feel myself, therefore, warranted in saying, that the *letter* of the Commission and of the Statutes is repugnant to the proposed delegation of authority over the London Militia.

As to the *spirit*, or, in other words, the *policy* of the Commission, the Statutes, and the Constitution, or Common Law upon this subject, perhaps a brief review of the history of the Militia, and the contentions which have taken place respecting the authority over it, particularly that of London, and the calamitous consequences which have followed some of those contests, will convince this honourable Court, better than any arguments of mine, not only of the extreme impropriety of surrendering up to others that authority with which they are entrusted, but of the wisdom of that mixture of the Magistracy and of private Gentlemen, which has been the character of all the Royal Commissions of Lieutenancy since the Restoration,

and indeed of most before, and of some even during the Commonwealth; and which principle of mixed authority will undoubtedly be done away if the Commissioners, so far from asserting their authority over the whole military force to be brought into the City on the 19th instant, surrender up for a time their command over that which the late Act places immediately and distinctly under their direction.

I have no doubt but time out of mind, whatever may have been the local privileges of London, and other corporate towns, with respect to their Militia, (and many undoubtedly London had, and many it retains), that still this constitutional force was universally administered under the express authority of the Crown, conveyed by charter, letters patent, or *Commissions*, but most frequently by the latter.

I find, among the proceedings of the Common Council, as far back as the 3d of March, 1587, about the thirtieth of Elizabeth, that a letter to the Lord Mayor is read in that Court, desiring

ten thousand able men may be furnished, &c. six thousand of them to be inrolled under Captains and Ensigns; that they are to be trained, &c. and governed with respect thereto, by such orders as shall from time to time be given, *under the hands of six Lords of the Privy Council.* Upon this occasion the Court of Common Council requested that they might have leave to appoint some such Captains and Officers as shall be approved by the Lord Mayor and Court of Aldermen.

By a report of a Committee of Aldermen to the Lord Mayor and Court of Aldermen, June 1618 (16th James I.), it appears that they recommended that when vacancies happen among the Captains of Militia, that the Colonel may have leave to recommend for the approbation of the *Lord Mayor and Court of Aldermen.*

It also appears that at a Court of Aldermen, held the preceding February, they resolved that a Commission of Lieutenancy shall be sued for and obtained from the King's Majesty to the *Lord Mayor*

Mayor and Sheriffs for the time being, and to such Aldermen as his Majesty shall think fit.

These documents not only shew that the Crown then maintained its authority over the Militia of London, as well as over that of the rest of the kingdom, but that it entrusted the administration of it at that period very much, and I rather think (from a declaration of Charles I. which I shall hereafter notice) *exclusively* to the Magistracy of London. Why it has been since necessary for the Crown not only to assert its absolute and uncontrollable right over the Militia, but to fill up Commissions of Lieutenancy according to its pleasure, without confining them to the Magistracy, but rather chusing on all occasions to mix the Magistracy with a large portion of its own especial nominees, the events of the succeeding disastrous reign plainly shew. One of the early symptoms of revolt against the unhappy Charles, was a claim of Parliament to have the direction of the Militia, London at that time always numbering from ten to twelve thousand of the most expert in the kingdom. I believe the

first attempt at this authority was in a conference between the Houses in 1642, when Pym, a leading orator of that day, complained of the want of power *in Parliament to regulate the Militia*. Soon after the House of Commons declared to the King that they had desired the concurrence of the Lords to beseech his Majesty to put the Militia, the Tower of London, and other places of strength into such hands as should be recommended by the two Houses.

The King demanded from them a list of whom they would recommend as Commissioners.

The Houses published an ordinance containing that list.

The King replied, that he was willing to appoint Commissioners of their recommendation, unless where he saw fair objections to them, except in the *City of London*, and other corporations which, by their charters, were invested with a power of *commanding their own Militia*; but that he could not strip himself, for an *indefinite time*, of that power

power vested in him by the laws of God and man for the defence of his people.

The two Houses then published an ordinance for establishing the Militia, under the command of persons to be nominated *by Parliament* for that purpose, in counties and corporations.

When the King delivered his answer in writing to the declaration of the Commons, the Earl of Pembroke asked him, Whether the Militia might not be granted, according to the Parliament's desire, for *a time*? His Majesty replied with great warmth, "No, by God, not for an hour!"

The Houses then voted, that Commissions, under the Great Seal, to Lieutenants of counties, were null and illegal; and that every person exercising the power over the Militia, by virtue of those Commissions, should be deemed a perturbator of the public peace.

Soon after, indeed, they passed a bill for establishing the Militia in the way the King had recommended,

recommended, but excluding him from all share in the regulation of it; he therefore withheld his consent.

It was not long after this that hostilities commenced between the King and Parliament; and the latter having taken the entire command of the Militia, they were actively employed during the whole of the rebellion, and signalized themselves on many occasions in the Parliamentary army, particularly at the battle of Newbury (Sept. 1643), where the London Trained Bands are said to have opposed themselves like a rampart against the efforts of the Royalists, and to have managed their pikes with such dexterity, that Prince Rupert attacked them in vain at the head of his choice cavalry.

At the Treaty of Uxbridge, 1644, the Houses proposed, among other humiliating articles, that the King should give up the command of the Militia.

The King offered, that the Militia should be put into the hands of twenty Commissioners; one half to be named by himself, the other half by the two Houses, and that the Commission should be for three years.

This, as well as the other concessions, was rejected by the Houses as unsatisfactory.

In 1648, however, this unfortunate Prince agreed to surrender the whole power over the Militia to Parliament.

About this time, 1647, a new kind of contest respecting the London Militia sprung up, which has lasted, in a degree, ever since; namely, Whether the administration of the authority over them should be confided to the *Magistracy*, the *Corporation*, or to a *Commission*. In the disputes between the Army and the House at this period, the City supported the latter, and Parliament having put the Militia into Commission, the army insisted that the ordinance should be revoked, and that

that it should be put upon its ancient footing. Parliament was forced to comply, and to revoke the ordinance. They afterwards, however, had the courage to put it again into the hands of a Commission, and vote that the Committee should be authorized to raise troops for the defence of the City, as well as to chuse a General acceptable to Parliament; and that he should appoint the officers with the approbation of the Committee. It appears, indeed, at that period, that the Common Council themselves wished the Militia to be in the hands of a Committee. The following is the document I allude to: In 1647, the Common Council address the House, "That they have perused an untrue, " unadvised, and dangerous petition, entitled the " Humble Petition of the Citizens of London, " whose names are under written, (stating) That " the Ordinance of the Arms of London hath, " time out of mind, been annexed *to the Mayor-* " *alty* of the said City, &c. &c. &c." They then pray the House to believe that neither this or any other petition of the kind ever came from the petitioners (the Common Council), nor was framed,

framed, contrived, or approved of by them, and that they do wholly, and with detestation, disavow and disclaim the same as an untrue, unadvised, and dangerous petition. They proceed to request the Parliament to take order for the punishment of the offenders, &c. &c.

I come now to that period of time when the Minutes of the Court of Lieutenancy begin; and the first in our present possession (though there is reason to think that some much further back might be found in the archives of the Corporation) is in 1659, and that evidently begins with a new Commission, which, though appointed by the Commonwealth, was highly favourable to Royalty, and instituted with a view to the restoration of Charles the Second. It consisted of a list presented to, and approved by Parliament, and did not even then consist, as some former Commissions had done, of the *Magistracy*, but of eleven Aldermen, three Deputies, and twenty-one private Gentlemen, many of them Officers.

It was under this Commission that many of the precedents, which have been referred to, took place. The Commissioners met about the period of the Restoration daily, sometimes twice a day, to give their military orders, and discharged their duty with so much zeal and alacrity, that although nominated under the Commonwealth, they were continued by a warrant from his Majesty (1660, 28th August) in their functions; and their services are acknowledged in very flattering terms in the Act of the thirteenth and fourteenth of Charles the First, which excepts the London Militia from certain parts of that Act, and, on account of their exertions towards the King's restoration, leaves them to be trained and marshalled in their usual way by the then Commissioners.

I have stated, that when the contest respecting the government of the London Militia ceased between the King and Parliament, it seemed to begin, and has continued in a degree ever since between the Crown and the Magistracy, and sometimes the Corporation of London.

Upon

Upon the introduction of the Act of 13th and 14th Car. II. (which the present Commission of Lieutenancy was instituted to carry into execution), entitled, "An Act for ordering the forces of the "several Counties of this Kingdom," the Court of *Aldermen* appointed a Committee of that Court to peruse the draft of the intended Act, and they were directed to consider how provision might be therein made for saving the rights and privileges of the City, and to prevent the Militia of the City being subjected to *any other command* than that of Commissioners of *themselves*, to be appointed by his Majesty and his successors, with power to raise and levy money, &c. &c. What was the conduct of the Crown upon the occasion? Just what I shall shew it to have been up to the present time. This Act (which undoubtedly was introduced under strong impressions of all the recent calamities which had arisen from the various contests respecting the Militia, and from its having been wrested from the royal command), begins its preamble (which in the legal interpretation of Acts of Parliament is always regarded as declaratory of the policy or principle of the Act, of which the sub-

sequent enactments are but the detail) with a most solemn recognition of the King's right, in the following terms :—" Forasmuch as within all his
 " Majesty's realms and dominions the sole and
 " supreme power, government, command, and
 " disposition of the Militia, and of all forces by
 " sea and by land, and of all forts and places of
 " strength is, and by the laws of England *ever*
 " *was*, the undoubted right of his Majesty, and
 " his royal predecessors, Kings and Queens of
 " England, and that both or either of the Houses
 " of Parliament cannot, nor ought, to pretend to
 " the same, &c. &c."

If neither or both Houses of Parliament can legally assume authority over the Militia, it is not, perhaps, too much to say, that neither can the Chief Magistrate, such at least was evidently the sentiments of the Government and the Legislature at that period, as well as since ; for the Act does not give to the Aldermen, or a *Commission of themselves*, the power of raising money for the expences of the Militia, but it gives it to those whom the King shall commissionate or appoint
 to

to be his Lieutenants. Neither does the Act impose a shadow of a restraint on the King, as to whom he shall appoint, as prayed by the Aldermen; but on the contrary, the *then existing Commission* continued, for aught that appears to the contrary, for some years longer, and the next Commission that was issued was directed as before, to some of the Aldermen, and to a much greater proportion of private Gentlemen.

Whether any intermediate struggles respecting the rule of the London Militia took place between that period and the latter end of George the Second, I am not possessed at this moment of documents to inform me; be that as it may, as far as I can learn, every succeeding Commission has been directed to a part, and sometimes all the Magistrates, with a much greater proportion of private Gentlemen.

About the latter end of the year 1755, it seems that a considerable number of the Common Council felt the necessity and the honour of a well-trained National Militia, and on the 25th of

November it was moved, in that respectable Court,
 “ That this Court apply to Parliament for a more
 “ effectual National Militia.” There were for
 the question, nine Aldermen, fifty-six Commoners
 —against it, eight Aldermen, seventy-eight Com-
 moners; the proposition was therefore negatived
 in a full Court.

In 1757, the 30th Geo. II. a Bill was intro-
 duced, and passed, entitled, “ An Act for the
 “ better ordering the Militia Forces in the several
 “ Counties in that part of Great Britain called
 “ England:” that Act, like the preceding and sub-
 sequent Acts, excepted the Military Force of
 the City of London from its operation. This
 exception, however, so far from being acceptable to
 a great part of the Corporation of that day, seems
 rather to have been felt as an indignity. They,
 with great spirit and patriotism, desired not to be
 excepted; but they coupled their offers (as will
 be seen by some following resolutions), with such
 terms respecting the *Commission of Lieutenancy*, as
 seem to have induced the rejection of their pro-
 posals.

April

April 2, 1757, a motion was made in the Court of Common Council, "That our representatives in Parliament be desired to get the clause of exemption left out of the Militia Bill now depending in the Honourable the House of Commons, and endeavour to get a clause or clauses in the said Bill for our being taken into the general estimate, under such circumstances as may best preserve our *present customs, rights, and privileges*, and to endeavour that the number do not exceed two batallions." The previous question being put, that the main question be now put, the same passed in the negative.

The Act therefore passed, and the London Militia were, as usual, left out.

What those customs, rights, and privileges were which were thus alluded to, or at least that among them was included, that of the Commission being in the hands of the *Magistracy*, or the *Corporation*, will appear from what followed within two or three years after.

At the period of his Majesty's accession to the throne, the laudable desire on the part of the Corporation to reform the Militia of London became general; and, at a Court of Common Council, held the 3d Dec. 1760, that Court appointed a Committee (the leading member of which was the late Alderman Beckford), "to take into consideration, and inquire into the state and condition of the Militia of the City of London, and to report their opinion thereon."

At a following Court, held the 20th Dec. 1760, that Committee reported. Their report was comprised in two resolutions of the Committee; the substance of which was,

FIRST—"That the Militia of London
"has become useless and burthen-
"some."

SECONDLY—"That, in order to enable
"the Common Council to pursue
"proper methods for rendering the
"Militia serviceable, a Petition be
"presented

“ presented to his Majesty to grant a
 “ Commission of Lieutenancy *to the*
 “ *Lord Mayor, Aldermen, and Com-*
 “ *mons of the said City, in Common*
 “ *Council assembled, for the time being.*”

This report, after much debate, was adopted, and the same Committee was ordered to prepare the Petition.

On the 11th Feb. 1761, Alderman Beckford presented from that Committee a draft of the proposed petition: it was agreed to, with a few alterations; and, considering that it was drawn up at a time when the prerogatives of the Crown certainly were not in very high favour, the substance of it is worthy of being noted by this Court.

It expresses concern at the useless and burthen-some state of the Militia of London.

That it *is*, and *ought* to be an inherent power in the King to issue his Commission of Lieutenancy to such persons *as he shall think fit.*

H

That

That the Petitioners are sensible of the great use of a well-regulated Militia.

That they are ready to contribute their utmost towards establishing the same.

That, until the reign of King Charles the Second, the military power of the City of London was entrusted and committed *to the Corporation*; and that the Lord Mayor, Aldermen, and Common Council, for the time being, raised the men, caused the Militia to be arrayed, armed, and disciplined, and made assessments on the inhabitants to defray the necessary expences on such occasions.

And it concludes thus:—

“ That your Petitioners apprehend that your
 “ Majesty’s loyal City of London might be delivered
 “ from the present unserviceable state of the Militia,
 “ and the military power thereof may be put on a
 “ more respectable and useful establishment, if
 “ your Majesty’s Commission of Lieutenancy for the
 “ said

“ said City was granted to the *Lord Mayor, Aldermen, Common Council, and their successors.*

“ They pray accordingly.”

Was the prayer granted? on the contrary, the Royal Commission, which preceded the present, was issued a few months after, directed, I think, to fifty-five Knights (most likely including the Aldermen), and about one hundred and fifty private gentlemen!

A general Militia Act, upon which what is called the County Act of the 26th Geo. III. is founded, issued two years after; and again the London Militia was left out of its operation.

Lastly, the present Commission of Lieutenancy must at least be supposed to shew the sense and pleasure of the Royal Person who granted it; which, although the Magistracy is therein included, is besides directed to about two hundred private gentlemen.

With such a body of evidence before me, as to the *spirit* or *policy* of the present Commission, the Statutes, and the Constitution, respecting the government of the Militia, with precedents to support my construction throughout a period of near one hundred and forty years; opposed but by one solitary instance in 1789, when it does not appear that the Court was duly summoned; with the melancholy history of one long and fatal struggle between Parliament and the Crown for authority over the Militia; with the subsequent history of a more peaceful, but certainly an earnest struggle between the Magistracy and the Crown for the administration of that authority; with Legislative Acts and Royal Commissions before me, evidently made under the full impress of these events; without a single word in any Act or Commission authorizing or countenancing a delegation of authority, but, on the contrary, requiring nine Commissioners to perform any one Act;—I do not hesitate to offer it as my decided opinion, that this Court cannot legally, or consistent with their duty, to the King, or their obligation to the Citizens of London, with

whose honour and military character they are entrusted, deliver up the London Militia to the care and command of other than their appointed officers—that they can make no intermediate delegation between those officers and themselves—and that they cannot therefore deliberately surrender their power and command over the London Militia to the Chief Magistrate, or to any person whatever, without the King's permission; but that, on the contrary, as the King's Lieutenants, they are bound to retain and preserve their authority over that force which his Majesty has especially committed to their care,

I own the path to be pursued by the Chief Magistrate would have appeared to me to be extremely obvious, even if it had not been marked out by ancient usage. Should his Lordship be pleased to require or accept of the service of the resident regiment of London Militia, it would undoubtedly become the duty of the Court of Lieutenancy to give orders, as they have hitherto done, “for the safety of the Royal Person, and the security of the peace.” In that case, this Court would

would of course consult with the Lord Mayor as to the propriety of the different military stations, the periods of their relief, and other points connected with the service in question ; but I know of no authority whatever which can justify the Chief Magistrate, or any other Civil Officer, in cases like the present, *neither sudden or emergent*, stepping in between the Lord Lieutenant and his officers, and giving his orders to the latter, without consultation or co-operation with the former, although the regiment should be stationed, like that of London, within the Lord Lieutenant's own county, and daily mounting different guards, and otherwise acting under his immediate directions ; or, as in the present case, although the Court of Lieutenancy should be almost daily sitting, and capable at any time of being convened in twenty-four hours, respecting the service in question. I presume it is not meant to set up a difference between the Commission being vested in a single person, or in a greater number ; I can only say, that, after a diligent search, I have found no difference either in the duties of the Lieutenancy under those different circumstances, or in the form of the orders which have been issued by the Crown

to that military office upon various important occasions.

As to the *auxiliary forces* proposed to be called in on the 19th inst. the question must, as I before observed, depend upon ancient and uniform custom. I know of no other authority on this part of the subject; therefore (although the Court may not perhaps think it expedient to press their opinion respecting them further upon the Chief Magistrate, whose office they have ever treated with the highest respect), I presume they will feel themselves bound, in duty to the King, to lay before his Majesty the circumstances of the case, in order to receive his commands as to their future conduct.

I am aware that I have been led rather into a treatise than an opinion upon the subjects referred to me. I hope the Court will accept as an apology, my desire to comply with what I conceived to be their wish, and my sincere conviction, that this question, namely, Whether the power of calling out the London Militia, in cases *not sudden*

or

or emergent, shall in future be vested singly in the Lord Mayor, or in a Commission, which includes the whole body of the Magistracy? is of quite as much importance to the rights and privileges of the Citizens of London, as it is to the prerogatives of the Crown; both, or either, of which will be in great danger of violation according to the temper of the times, and the political predilections of the Chief Magistrate.

RANDLE JACKSON.

TEMPLE, Dec. 13, 1797.

After the reading of the foregoing report and opinion, a motion was made, and seconded, that this Court do agree with the Committee in their said report; and, upon the question being put, the same passed in the affirmative.

A mo-

A motion was then made and seconded, that it is expedient for this Court to request his Royal Highness Field-Marshal the Duke of York, to order the West Regiment of London Militia to return to this city, for the purpose of mounting guard on the 19th inst.—which, upon the question being put, also passed in the affirmative.

RESOLVED,

That the Right Honourable the Lord Mayor, as the head of this Court, be requested to make such requisition accordingly to his Royal Highness.

ORDERED,

That a special Court of Lieutenancy be summoned to meet on Friday next, the 15th instant, at eleven o'clock, to take into further consideration the measures to be pursued by this Court on his Majesty's coming to St. Paul's.

Friday, the 15th day of December, 1797.

The Clerk laid before the Court a letter he had received from the Right Honourable the Lord
 1 Mayor

Mayor, inclosing a copy of a letter received by his Lordship from his Royal Highness the Duke of York, which were severally read as follows : viz.

" SIR, " *Mansion House, Dec. 14, 1797.*

" Before I received your letter of yesterday's
 " date, I felt it my duty, as Lord Mayor of the
 " City of London, to apply to his Royal High-
 " ness the Duke of York, to have the regiment
 " of London Militia, at Greenwich, marched into
 " London, on Tuesday, the 19th instant, for the
 " service of that day, on their Majesties, the
 " Royal Family, and both Houses of Parliament
 " coming to St. Paul's, and I now enclose a copy
 " of his Royal Highness's answer, dated the 9th
 " instant, for the information of the Commissioners
 " of his Majesty's Lieutenancy of this City; and
 " *it is my intention to order the other regiment of*
 " *London Militia out upon that day, on the same*
 " *duty.*

" I am, Sir,

" Your very humble servant,

" ANDERSON, Mayor."

Edward Grose Smith, Esq. .

" Horse-Guards, 9th December, 1797.

" MY LORD,

*" I have to acknowledge the receipt of your
" Lordship's letter of this day, and shall not fail to
" give directions for the march of the regiment of
" London Militia, at Greenwich, to London, on
" Tuesday, the 19th instant, for that day, and
" to be placed under your Lordship's command.*

" I am, my Lord,

" Your's,

(Signed)

" FREDERICK, F. M."

*The Right Honourable
the Lord Mayor, &c. &c.*

A motion was then made and seconded, that the Right Honourable the Lord Mayor be requested to give such directions as he thinks most advisable for the management and arrangement of the military force to be employed in this City, on Tuesday, the 19th instant, whereupon an amendment was moved and seconded, that the words " military force"

force" in the foregoing motion be expunged, and the words "East Regiment of London Militia" be substituted in their stead; and the question being put on the amended motion, the same was negatived: the main question was then put, and passed in the affirmative.

AP 66

F I N I S